

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MICHAEL PATRICK SIANO™,

Plaintiff Corporate Entity,
v.

M&T BANK,
PARKER McCAY P.A. LAW
OFFICES et al. and all Unknown Parties,

Defendants.

Document Filed Electronically
Civil Action No.: 3:20-cv-12827-MAS-DEA

**DECLARATION OF JAMES P. BERG, ESQ. IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

James P. Berg, Esq., an attorney duly licensed to practice law in the State of New Jersey and in this Court, declares and affirms under penalty of perjury as follows to the best of his knowledge, information, and belief:

1. I am a partner of the law firm of Parker Ibrahim & Berg LLP, attorneys for defendant M&T Bank ("M&T Bank"), in the above-captioned action. I submit this declaration in support of M&T Bank's Motion to Dismiss the Complaint of *Pro Se* Plaintiff Michael Patrick Siano™ ("Plaintiff") with prejudice.

2. A true and correct copy of the Note dated July 19, 2017, executed by Plaintiff in favor of Glendenning Mortgage Corporation ("Glendenning") in the original principal amount of \$193,922 (the "Note"), is attached as Exhibit 1.

3. A true and correct copy of the Mortgage dated February 7, 2006, executed by Plaintiff, as security for the Note and delivered to Mortgage Electronic Registration Systems, Inc. ("MERS"), as nominee for Glendenning, against real property located at 102 Haines Street, East Lanoka Harbor, New Jersey 08734 (the "Mortgage"), is attached as Exhibit 2.

4. A true and correct copy of the Assignment of Mortgage, dated October 17, 2018, assigning the Mortgage from MERS, as nominee for Glendenning to Wells Fargo Bank, N.A. (“Wells Fargo”), is attached as **Exhibit 3**.

5. A true and correct copy of the Assignment of Mortgage, dated April 23, 2019, assigning the Mortgage from Wells Fargo to M&T Bank, is attached as **Exhibit 4**.

6. A true and correct copy of the docket summary report in the state court foreclosure action captioned *M&T Bank v. Michael P Siano, et al.* and docketed at No. SWC-F-014382-19 (the “Foreclosure Action”), is attached hereto as **Exhibit 5**.

7. A true and correct copy of the August 19, 2019 Complaint filed in the Foreclosure Action, is attached hereto as **Exhibit 6**.

8. A true and correct copy of Plaintiff’s Answer, dated September 25, 2019 and filed in the Foreclosure Action, is attached hereto as **Exhibit 7**.

9. A true and correct copy of M&T Bank’s motion for summary judgment (without exhibits), dated December 17, 2019 and filed in the Foreclosure Action, is attached hereto as **Exhibit 8**.

10. A true and correct copy of the Certification of Rachel M. Nowicki, dated November 29, 2019 (without exhibits) in support of M&T Bank’s motion for summary judgment and filed in the Foreclosure Action, is attached hereto as **Exhibit 9**.

11. A true and correct copy of Plaintiff’s Opposition to M&T Bank’s motion for summary judgment, dated January 14, 2020 and filed in the Foreclosure Action, is attached hereto as **Exhibit 10**.

12. A true and correct copy of the January 24, 2020 Order of Judge Francis R. Hodgson, Jr., P.J.Ch. granting M&T Bank's motion for summary judgment in the Foreclosure Action, is attached hereto as **Exhibit 11**.

13. A true and correct copy of M&T Bank's motion for entry of final judgment, dated March 4, 2020 (without exhibits) and filed in the Foreclosure Action, is attached hereto as **Exhibit 12**.

14. A true and correct copy of the June 30, 2020 Order of Judge Francis R. Hodgson, Jr., P.J.Ch. granting M&T Banks' motion for entry of final judgment in the Foreclosure Action, is attached hereto as **Exhibit 13**.

15. A true and correct copy of the June 30, 2020 Writ of Execution issued by the Clerk of the Superior Court of Ocean County that was rendered in the Foreclosure Action, is attached hereto as **Exhibit 14**.

16. A true and correct copy of Plaintiff's motion to vacate the final judgment (without exhibits), dated August 24, 2020 and filed in the Foreclosure Action, is attached hereto as **Exhibit 15**.

17. A true and correct copy of M&T Bank's Opposition to Plaintiff's motion to vacate the final judgment (without exhibits), dated September 3, 2020 and filed in the Foreclosure Action, is attached hereto as **Exhibit 16**.

18. A true and correct copy of Plaintiff's Counterclaim with Quite Title, dated September 10, 2020 and filed in the Foreclosure Action, is attached hereto as **Exhibit 17**.

19. A true and correct copy of the September 11, 2020 Order of Judge Francis R. Hodgson, Jr., P.J.Ch. denying Plaintiff's motion to vacate final judgment entered in the Foreclosure Action, is attached hereto as **Exhibit 18**.

20. A true and correct copy of Plaintiff's Complaint with Quiet Title filed with the U.S. District Court, District of New Jersey captioned *Michael Patrick Siano™ v M&T Bank, et al.* and docketed at 3:20-cv-12827-MAS-DEA, is attached hereto as **Exhibit 19**.

21. A true and correct copy of the unpublished decision in *Harris v. Wells Fargo Bank, N.A.*, No. 16-CV-3147 (ES), 2017 U.S. Dist. LEXIS 137723 (D.N.J. Aug. 28, 2017) is attached hereto as **Exhibit 20**.

22. A true and correct copy of the unpublished decision in *Aliperio v. Bank of Am.*, No. 16-CV-01008-KM, 2016 U.S. Dist. LEXIS 172490 (D.N.J. Dec. 13, 2016) is attached hereto as **Exhibit 21**.

23. A true and correct copy of the unpublished decision in *Mantovani v. Wells Fargo Bank, N.A.*, No. 18-CV-0886, 2018 U.S. Dist. LEXIS 135910 (D.N.J. Aug. 13, 2018) is attached hereto as **Exhibit 22**.

24. A true and correct copy of the unpublished decision in *In re Singh*, No. 11-18396 (MBK), 2012 Bankr. LEXIS 1310 (Bankr. D.N.J. Aug. 13, 2018) is attached hereto as **Exhibit 23**.

25. A true and correct copy of the unpublished decision in *Hernandez v. Fannie Mae*, N.A., No. 2:14-7950 (WJM), 2015 U.S. Dist. LEXIS 67476 (D.N.J. May 26, 2015) is attached hereto as **Exhibit 24**.

26. A true and correct copy of the unpublished decision in *Patrick v. America's Servicing Co.*, No. 2:14-6563 (WJM), 2015 U.S. Dist. LEXIS 50570 (D.N.J. Apr. 17, 2015) is attached hereto as **Exhibit 25**.

27. To the best of my knowledge, there are no unpublished opinions that run contrary to the above-referenced unpublished opinions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

PARKER IBRAHIM & BERG LLP

Respectfully submitted,

Dated: November 3, 2020

/s/ James P. Berg

James P. Berg, Esq.

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